

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Review of Foreign Ownership Policies for)	IB Docket No. 11-133
Common Carrier and Aeronautical Radio)	
Licensees under Section 310(b)(4) of the)	
Communications Act of 1934, as Amended)	

To: The Commission

REPLY COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation (“Sprint”) hereby submits its reply comments in the above-captioned proceeding. Sprint takes this opportunity to commend the Commission and its staff on their efforts to reduce, revise and streamline the burdens imposed by the procedures that apply to foreign ownership of common carrier radio station licensees. Sprint herein responds to the comments offered on the Notice of Proposed Rulemaking in this proceeding.¹

I. SPRINT AGREES WITH COMMENTERS WHO SUPPORT THE FCC’S PROPOSALS TO STREAMLINE THE FOREIGN OWNERSHIP REGULATORY FRAMEWORK.

Sprint agrees with the numerous commenters who have expressed support for the Commission’s proposals to revise the standards for public interest determinations under Section 310(b)(4) of the Communications Act in order to ease the procedural burdens

¹ In the Matter of Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended, IB Docket No. 11-133, FCC 11-121 (rel. Aug. 9, 2011) (“NPRM”).

imposed upon applicants seeking changes in their foreign ownership.² In particular, Sprint offers its views on three specific areas of interest.

First, Sprint agrees with the Satellite Industry Association that the Commission should adopt the proposal for an aggregate allowance of up to 100 percent for “unnamed foreign investors”³ provided that no single foreign-owned investor or “group”⁴ of foreign investors acquires more than 25 percent of the parent’s equity or voting interests.⁵ Sprint monitors, at some expense, changes in its level of foreign ownership effected through ordinary public trading with an eye toward not exceeding the current 25 percent allowance. Often it is impossible to discern definitively the nationality of beneficial owners of Sprint’s stock, so Sprint is required to render conservative estimates as to possible foreign ownership levels. This situation could deter potential useful investment by unnamed foreign investors even at levels that could, in actuality, only raise the total amount of foreign investment to a level below the current limit of 25 percent. Because of this obstacle to investment, the expense of ongoing monitoring, and the fact that the

² Comments of AT&T, IB Dkt. No. 11-133, at 8-11 (filed Dec. 5, 2011) [hereinafter all comments filed in this docket on this date referred to as “Comments of ...”]; Comments of Verizon at 5-8; Comments of T-Mobile USA, *passim*; Comments of the GSM Association, *passim*; Comments of the Satellite Industry Association at 2-5; Comments of Vodafone at 6 (expressing no objection to the proposals).

³ An “unnamed foreign investor” is, for purposes of these reply comments, a foreign owned or controlled entity acquiring an interest in the U.S. parent holding company of a licensee that is not named in any petition for a declaratory ruling under Section 310(b)(4) or a foreign owned or controlled investor having less than a 5 percent beneficial ownership interest and thus is not subject to identification under reporting requirements set by the Securities and Exchange Commission. *See* NPRM at ¶¶33-34 & n. 73.

⁴ A “group” of investors is defined as a two or more investors which “have agreed to act together for the purpose of acquiring, holding, voting, or disposing of their equity and/or voting interests in the U.S. company or any intermediate company(ies) through which any of the investors holds its interest in the U.S. parent.” NPRM at ¶32. *See also id.* at n.65.

⁵ *See* Comments of Satellite Industry Association at 7-8, citing NPRM at ¶¶46-47.

public interest would not be served if restrictions had to be placed on the public trading of a holding company like Sprint simply because it was estimated that foreign beneficial ownership – dispersed among hundreds or possibly thousands of unnamed investors – could exceed 25 percent, the Commission should adopt the 100 percent aggregate allowance proposal.

Second, Sprint agrees with Verizon that the Commission should amend its proposal to issue declaratory rulings under Section 310(b)(4) to a licensee's lowest-tiered U.S. parent and instead issue such rulings to the highest-tiered U.S. parent.⁶ As long as the ownership structures are the same (*i.e.*, the same level of foreign ownership and the same named foreign investors are implicated across all affiliates and subsidiaries), there is no reason not to adopt Verizon's proposed modification. This modification will reduce the number of duplicative filings made by commonly-held affiliates with exactly the same level and structure of foreign ownership without affecting the Commission's ability to review adequately an applicant's request to increase its level of foreign investment. Such review should apply to all the licensed entities held by the U.S. holding company parent.

Third, Sprint agrees with Verizon that there is no persuasive reason to distinguish between approvals for named foreign investors up to the 49.99 percent level and those for named foreign investors up to the 100 percent level.⁷ The NPRM distinguishes between controlling and non-controlling interests, but as Verizon points out, these issues can be addressed in the required transfer of control applications under Section 310(d), which will provide an adequate opportunity for public comment and Commission review that

⁶ Comments of Verizon at 5-6, citing NPRM at ¶¶39-40.

⁷ Comments of Verizon at 7-8, citing NPRM at ¶¶43, 45.

can address any public interest issues arising from the transition from a non-controlling foreign interest to a controlling interest. Adoption of this modification will eliminate the need for a second, duplicative filing under Section 310(b)(4).

II. SPRINT AGREES WITH COMMENTERS WHO SUPPORT REVISION OF THE 2004 FOREIGN OWNERSHIP GUIDELINES TO CLARIFY THAT SECTION 310(b)(4) APPLIES TO ALL INDIRECT INVESTMENT.

Sprint notes that three commenters have pointed out that the International Bureau's Foreign Ownership Guidelines⁸ state that Section 310(b)(3) applies when a foreign entity acquires an indirect, non-controlling interest in a licensee, and Section 310(b)(4) applies when a foreign entity acquires an indirect, controlling interest in a licensee.⁹ Sprint agrees with these commenters that this interpretation of the statute should be corrected. These commenters have pointed out that the existing interpretation in the Foreign Ownership Guidelines conflicts with U.S. trade agreements, with the plain meaning and legislative history of these statutory provisions, and with Commission precedent in applying them. A decision not to revise the guidelines would only continue to foster uncertainty as licensees seek useful foreign investment, a state of affairs directly at cross purposes with the NPRM. The Commission should take the opportunity afforded by this proceeding to make the definitive correction.

⁸ Foreign Ownership Guidelines for FCC Common Carrier and Aeronautical Radio Licensees, 19 FCC Rcd 22612 (IB 2004).

⁹ Comments of AT&T at 5-8; Comments of Vodafone at 12-29; Comments of the European-American Business Council at 3-6.

III. CONCLUSION

For the reasons given above, Sprint respectfully requests that the Commission adopt the proposals and make the modifications explained in the foregoing.

Respectfully submitted,

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